

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

In re: Farmers Insurance Co., Inc.) Western Dist. Case No. CIV-03-158-F
FCRA litigation.)
) MDL No. 1564
Judge Friot)
) This document relates to Case
) No. CIV-04-851-F (Ross)

ORDER

On August 11, 2006, the court ordered the plaintiff in the Ross case to either file a stipulation of dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(ii) dismissing the action against defendant or to file a motion pursuant to Fed. R. Civ. P. 41(a)(2) requesting the dismissal of the action against defendant on or before September 22, 2006. The court also ordered that if plaintiff in the Ross case failed to comply as ordered, defendant would be permitted to file, on or before October 13, 2006, an appropriate motion to obtain the appropriate action.

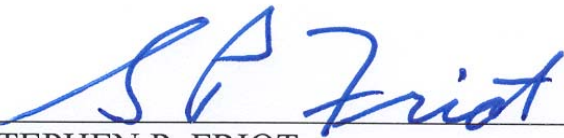
On October 4, 2006, defendant, Mid-Century Insurance Company, filed a motion to dismiss, requesting the court to dismiss the complaint filed by plaintiff, pursuant to Fed. R. Civ. P. 41(b), with prejudice, as a complete and final adjudication of this action on the merits.

Plaintiff has not responded to the motion within the time prescribed by LCvR 7.2(f). Although plaintiff has not opposed the motion, the court declines to grant a dismissal with prejudice. The court shall grant a dismissal of the case, but the court concludes that the dismissal should be without prejudice. The court notes from the status report filed by defendants on August 2, 2006, and adopted by plaintiff on August 4, 2006, that plaintiff is included within the certified class in the *Mobbs* case. The court declines to dismiss this case with prejudice and preclude plaintiff from

participating in the certified class, without any affirmative word from plaintiff that plaintiff desires not to pursue any claim.

Accordingly, Defendant's Motion to Dismiss, filed October 4, 2006 (doc. no. 756) is **GRANTED** to the extent that this action is hereby **DISMISSED WITHOUT PREJUDICE**.

DATED this 24th day of October, 2006.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE